IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUIT NO.3042 OF 2007
WITH
NOTICE OF MOTION NO.4163 OF 2007

Amrutlal Patel and others ..Plaintiffs.
Vs.
Hemalatha Laxman Manjrekar & anr. ..Defendants.

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Mr. D.H. Mehta with Ms. Poornima Awasthi for the Plaintiffs.
Mr. Mohit Jadhav for Defendant No.1.
Mr. Rajan K. Kakkala i/b Aarkey Legal for Defendant No.2.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

3rd December, 2007.

P.C. :

1. The Notice of Motion came up for hearing before the Court on 2nd November, 2007 at the ad interim stage. At that stage, the hearing was adjourned to 30th November, 2007. On 30th November, 2007 parties appeared before the Court and terms of settlement were discussed. At that stage, the Constituted Attorney of the First Defendant was present. The suit has accordingly been placed on Board today. The parties and their respective advocates are present before the Court. All the learned counsel

are agreed that the suit may be disposed of in terms of the following arrangement which has been agreed upon :

i) The Second Defendant who is the developer has agreed to provide permanent alternate accommodation to the First Defendant consisting of Flat No.103, being a road facing flat on the first floor of the building under construction admeasuring a carpet area of 300 sq. ft.;

ii) The Second Defendant agrees and undertakes to the Court through Mr. Ajit Thakkar and Mr. Manish Kutmutya, Constituted Attorneys and Directors of the Second Defendant who are present before the Court and have tendered an undertaking through the learned counsel that (1) upon the construction of the building being complete, the aforesaid alternate accommodation shall be duly allotted to the First Defendant; (2) a formal agreement shall be entered into with the First Defendant within a period of one week from today in consonance with these terms and all the registration charges and stamp duty payable on the agreement shall be borne by the Second Defendant;

iii) To meet the expenses of the transit accommodation to be borne by the First Defendant, the Second Defendant shall pay an amount quantified at Rs.5,500/- per month to the First Defendant until peaceful and vacant possession of the alternate accommodation complete in all respects is handed over to the First Defendant after receipt of the occupation certificate from the Municipal Corporation. The Second Defendant states that the building shall be complete and possession of the alternate accommodation shall be handed over within a period of 15 months from the date of demolition of the structure occupied by the First Defendant;

iv) The First Defendant agrees and undertakes to vacate the structure in her occupation within a period of two weeks from today. The First Defendant agrees and undertakes to furnish a letter withdrawing her objections to the Municipal Corporation within a period of one week from today;

v) In the event that the First Defendant fails to vacate the premises within a period of two weeks from today, the Court Receiver shall stand appointed as Receiver of the structure in occupation of the First Defendant. The Court Receiver shall upon taking possession of the structure take steps to obtain vacant possession thereof from the First Defendant and hand over the same to the Second Defendant for demolition so as to effect compliance with the agreed terms as aforesaid;

vi) The Second Defendant agrees and undertakes to this Court not to create any third party rights in respect of the permanent alternate accommodation to be allotted to the First Defendant and it has been stated that no third party rights have been created in respect of the said accommodation;

vii) An amount of Rs.2.50 lacs shall be paid by the Second Defendant to the First Defendant in addition to the provision of alternate accommodation in three equal installments, the first being payable simultaneously with the First Defendant shifting from the

structure in her occupation and the second and third installments respectively within thirty days and sixty days of the payment of the first installment;

viii) The parties are agreed that the present order of the Court shall be placed on the record of the Municipal Corporation and shall amount to a withdrawal of the objection, if any, of the First Defendant to the development work which is to be carried out by the Second Defendant.

In view of the agreement which has been arrived at between the parties, counsel appearing for the Plaintiffs states that no further directions are required in the suit and the suit shall be accordingly dismissed as withdrawn.

The implementation of the terms contained in the present order shall thereupon proceed unimpeded.

The Notice of Motion as well as the Suit is accordingly disposed of.

Refund of Court fees, if any, as per rules.